

NAIR et al
Appl. No. 09/171,916
April 18, 2005

REMARKS/ARGUMENTS

Reconsideration of this application and entry of the foregoing amendments are respectfully requested.

The Amendment filed September 7, 2004 includes, in the Remarks, the comment "[a]s regards claim 16 and 53, no teaching of "fixed tissue" is found in the citation". It has now been appreciated that while claim 16 refers to "fixed tissue", claim 53 refers to "frozen tissue". Any confusion resulting from the September 7, 2004 inadvertent misstatement is sincerely regretted. While claim 53 has now been cancelled, that cancellation should not be construed as a disclaimer by Applicants of the subject matter of that claim. While the priority application may not make specific reference to "frozen tissue", one skilled in the art would have appreciated that frozen tissue could be used – in this regard, the Examiner's attention is directed to, for example, the attached abstract of Sugg et al, J. Clin. Endo. Metab. 81:3360 (1996) (which abstract is listed on the accompanying PTO-1449 Form).

Claims 18 and 41 stand rejected as allegedly representing obviousness-type double patenting over claims of Application No. 09/875,264. While in no way agreeing with the Examiner's rejection, a Terminal Disclaimer (and required fee) is submitted herewith merely to advance prosecution.

Claim 13 stands rejected under 35 USC 112, second paragraph, as allegedly being indefinite. Withdrawal of the rejection is submitted to be in order in view of the above-noted claim revision. Reconsideration is requested.

This application is submitted to be in condition for allowance and a Notice to that effect is requested.

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Respectfully submitted,

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